

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 153 be amended to read as follows:

- 1 Page 1, line 7, delete "or private entity".
- 2 Page 2, line 6, after "of" reset in roman "an".
- 3 Page 2, line 6, delete "a private".
- 4 Page 2, line 6, delete "or private entity".
- 5 Page 2, delete lines 40 through 42.
- 6 Page 3, delete lines 1 through 3, begin a new paragraph and insert:
- 7 **"(g) This section expires December 31, 2006.**
- 8 SECTION 2. IC 12-17-2-18.1 IS ADDED TO THE INDIANA
- 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 10 [EFFECTIVE JULY 1, 2006]: **Sec. 18.1. (a) This section applies after**
- 11 **December 31, 2006.**
- 12 **(b) The bureau shall make the agreements necessary for the**
- 13 **effective administration of the plan with local governmental**
- 14 **officials within Indiana. The bureau shall contract with:**
- 15 **(1) a prosecuting attorney;**
- 16 **(2) a private attorney or private entity if the bureau**
- 17 **determines that a reasonable contract cannot be entered into**
- 18 **with a prosecuting attorney and the determination is**
- 19 **approved by at least two-thirds (2/3) of the Indiana child**
- 20 **custody and support advisory committee (established by**
- 21 **IC 33-24-11-1); or**
- 22 **(3) a collection agency licensed under IC 25-11 to collect**
- 23 **arrearages on child support orders under which collections**
- 24 **have not been made on arrearages for at least two (2) years;**
- 25 **in each judicial circuit to undertake activities required to be**

performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(c) The hiring of a private attorney or private entity by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(d) Subject to section 18.6 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (b):

- (1) may contract with a collection agency licensed under IC 25-11 to provide child support enforcement services; and
- (2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(e) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(f) At the time that an application for child support services is made, the applicant must be informed that:

- (1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and
- (2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(g) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of parenting time or parenting time credit.

(h) An agreement made under subsection (b) must contain requirements stipulating service levels a prosecuting attorney or private entity is expected to meet. The bureau shall disburse incentive money based on whether a prosecuting attorney or

1 private entity meets service levels stipulated in an agreement made  
2 under subsection (b)."

3 Page 4, between lines 33 and 34, begin a new paragraph and insert:

4 **"(i) This section expires December 31, 2006.**

5 SECTION 4. IC 12-17-2-18.6 IS ADDED TO THE INDIANA  
6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 2006]: **Sec. 18.6. (a) This section applies after**  
8 **December 31, 2006.**

9 **(b) The bureau shall establish a program to allow a prosecuting**  
10 **attorney with which the bureau has contracted under section 18.1**  
11 **of this chapter to contract with a collection agency licensed under**  
12 **IC 25-11 to provide child support enforcement services.**

13 **(c) The bureau shall:**

14 **(1) establish a list of approved collection agencies with which**  
15 **a prosecuting attorney may contract under this section;**

16 **(2) establish requirements for participation in the program**  
17 **established under this section to assure:**

18 **(A) effective administration of the plan; and**

19 **(B) compliance with all federal and state statutes,**  
20 **regulations, and rules;**

21 **(3) update and review the list described in subdivision (1) and**  
22 **forward a copy of the updated list to each prosecuting**  
23 **attorney annually; and**

24 **(4) preapprove or approve all contracts between a collection**  
25 **agency and a prosecuting attorney.**

26 **(d) A contract between a prosecuting attorney and a collection**  
27 **agency under this section must include the following provisions:**

28 **(1) A provision that records of a contractor operated child**  
29 **support enforcement system are subject to inspection and**  
30 **copying to the same extent the records would be subject to**  
31 **inspection and copying if the contractor were a public agency**  
32 **under IC 5-14-3.**

33 **(2) A provision that records that are provided by a contractor**  
34 **to the prosecuting attorney that relate to compliance by the**  
35 **contractor with the terms of the contract are subject to**  
36 **inspection and copying in accordance with IC 5-14-3.**

37 **(e) The bureau is not liable for any costs related to a contract**  
38 **entered into under this section that are disallowed for**  
39 **reimbursement by the federal government under the Title IV-D**  
40 **program of the federal Social Security Act.**

41 **(f) The bureau shall treat costs incurred by a prosecuting**  
42 **attorney under this section as administrative costs of the**  
43 **prosecuting attorney.**

44 **(g) Contracts between a collection agency licensed under**  
45 **IC 25-11 and the bureau or a prosecuting attorney:**

46 **(1) must:**

- 1           **(A) be in writing;**  
 2           **(B) include:**  
 3               **(i) all fees, charges, and costs, including administrative**  
 4               **and application fees; and**  
 5               **(ii) the right of the bureau or the prosecuting attorney to**  
 6               **cancel the contract at any time;**  
 7           **(C) require the collection agency, upon the request of the**  
 8           **bureau or the prosecuting attorney, to provide the:**  
 9               **(i) source of each payment received for arrearage on a**  
 10              **child support order;**  
 11              **(ii) form of each payment received for arrearage on a**  
 12              **child support order;**  
 13              **(iii) amount and percentage that is deducted as a fee or**  
 14              **a charge from each payment of arrearage on a child**  
 15              **support order; and**  
 16              **(iv) amount of arrearage owed under a child support**  
 17              **order; and**  
 18           **(D) be one (1) year renewable contracts; and**  
 19           **(2) may be negotiable contingency contracts in which a**  
 20           **collection agency may not collect a fee that exceeds fifteen**  
 21           **percent (15%) of the arrearages collected per case.**  
 22           **(h) A collection agency that contracts with the bureau or a**  
 23           **prosecuting attorney under this section may, in addition to the**  
 24           **collection of arrearages on a child support order, assess and collect**  
 25           **from an obligor all fees, charges, costs, and other expenses as**  
 26           **provided under the terms of the contract described in subsection**  
 27           **(g).".**  
 28           Renumber all SECTIONS consecutively.  
           (Reference is to ESB 153 as printed February 21, 2006.)

---

Representative Richardson